

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

UNITED STATES OF AMERICA

Plaintiff,

V.

UNITED MICROELECTRONICS
CORPORATION, *et al.*,

Defendants.

CASE NO.: 3:18-CR-00465-MMC

**LETTER OF REQUEST FOR
INTERNATIONAL JUDICIAL
ASSISTANCE PURSUANT TO ALL
APPLICABLE TREATIES AND
AGREEMENTS BETWEEN THE
GOVERNMENT OF THE UNITED
STATES OF AMERICA AND TO THE
GOVERNMENT OF THE PEOPLE'S
REPUBLIC OF CHINA**

Judge: The Honorable Maxine M. Chesney

TO THE MINISTRY OF JUSTICE OF THE PEOPLE'S REPUBLIC OF CHINA:

The United States District Court for the Northern District of California presents its compliments to the Ministry of Justice of the People's Republic of China (the "Ministry") and requests international judicial assistance to permit Defendant Fujian Jinhua Integrated Circuit Co., Ltd. ("Jinhua") in the above-captioned criminal matter to obtain remote witness testimony to be used in the proceeding before this Court in the above-captioned matter. This Court respectfully requests that the Ministry recognize this Letter of Request, issued based on this Court's inherent power, and arrange for its execution in ~~accordance with any applicable law, treaty, or statute, including, but not limited to, the Agreement Between The Government of the United States of America and The Government of the People's Republic of China On Mutual Legal Assistance In Criminal Matters ("MLAA") and the Hague Evidence Convention, as well as in~~ the interest of comity. This Letter of Request is also consistent with the diplomatic note served on the United States Department of State by the Embassy of the People's Republic of China in Washington, D.C. on June 7, 2022, which stated that the People's Republic of China was open to receiving both MLAA requests and letters rogatory for the remote testimony of witnesses on behalf of Jinhua. Trial in this matter commenced on February 28, 2022.

1 This Court requests the assistance described herein as necessary in the interests of justice.
 2 This Letter of Request is made pursuant to the authority granted ~~to the Court~~ under 28 U.S.C.
 3 § 1781(b)(2), which provides reciprocal assistance to the Court of the People's Republic of China if
 4 future circumstances so require. The particulars of this Letter of Request are as follows:

1	1. Sender:	The Honorable Maxine M. Chesney United States District Court for the Northern District of California San Francisco Courthouse Courtroom 7 – 19th Floor 450 Golden Gate Avenue San Francisco, CA 94102
2	2. Authority of the Requested State:	Ministry of Justice of the People's Republic of China International Legal Cooperation Center Ministry of Justice of China 33, Pinganli Xidajie Xicheng District Beijing 100035 People's Republic of China
3	3. Person to Whom the Executed Request Is To Be Returned:	Jack P. DiCanio SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP 525 University Avenue Palo Alto, California 94301 An officer of the Court on behalf of: The Honorable Maxine M. Chesney United States District Court for the Northern District of California San Francisco Courthouse Courtroom 7 – 19th Floor 450 Golden Gate Avenue, San Francisco, CA 94102
4	4. Response Date:	The requesting authority respectfully requests that Ministry respond to the below document as soon as possible, <u>and would be grateful if the</u> <u>Ministry would be kind enough to respond by</u> <u>but no later than</u> August 1, 2022.
5	5. Requesting Judicial Authority:	The Honorable Maxine M. Chesney United States District Court for the Northern District of California San Francisco Courthouse Courtroom 7 – 19th Floor 450 Golden Gate Avenue,

1	San Francisco, CA 94102
2	6. Name of the Case and Identifying Number: <i>United States of America v. United Microelectronics Corporation, et. al.</i> , Case No.: 3:18-cr-00465-MMC

4 **Parties and Their Representatives:**

5 United States of America	Stephanie M. Hinds, Esq. United States Attorney for the Northern District of California
7	Thomas A. Colthurst, Esq. Chief, Criminal Division, for the Northern District of California
9	Laura Vartain Horn, Esq. Nicholas Walsh, Esq. Assistant United States Attorneys
10	Nicholas O. Hunter, Esq. Stephen Marzen, Esq. Trial Attorneys, National Security Division of the United States Department of Justice
14 Fujian Jinhua Integrated Circuit Co., Ltd.	Jack P. DiCanio Emily Reitmeier SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP 525 University Avenue Palo Alto, California 94301 Telephone: (650) 470-4500 Facsimile: (650) 470-4570
18	Matthew E. Sloan SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP 300 South Grand Avenue, Suite 3400 Los Angeles, California 90071-3144 Telephone: (213) 687-5000 Facsimile: (213) 687-5600
21	

22 **Nature and Purpose of the Proceedings:**

23 On September 27, 2018, this case commenced upon the return of a sealed indictment against
 24 United Microelectronics Corporation (“UMC”); Fujian Jinhua Integrated Circuit, Co., Ltd.
 25 (“Jinhua”); Chen Zhengkun, a.k.a Stephen Chen; He Jianting, a.k.a. J.T. Ho; and Wang Yungming,
 26 a.k.a. Kenny Wang. (The indictment was unsealed on or about October 30, 2018). The United States
 27 alleged that the defendants violated various criminal statutes related to the misappropriation of trade
 28 secrets. The charges stemmed from allegations that the defendants conspired to steal trade secrets
 related to DRAM semiconductor chips belonging to Micron Technology, Inc.

1 For its part in the alleged conspiracy, Jinhua was charged with violating: (1) 18 U.S.C.
 2 § 1831(a)(5), conspiracy to commit economic espionage; (2) 18 U.S.C. § 1832(a)(5), conspiracy to
 3 commit theft of trade secrets; and (3) 18 U.S.C. §§ 1831(a)(3) and 2, economic espionage (receiving
 4 and possessing stolen trade secrets). The maximum penalties for each violation of § 1831 is: (1) A
 5 fine not more than the greater of \$10,000,000 or 3 times the value of the stolen trade secret to the
 6 organization, including the expenses for research and design and other costs of reproducing the trade
 7 secret that the organization has thereby avoided; (2) Restitution; (3) Asset Forfeiture; and (4) a \$400
 8 special assessment. The maximum penalty for the violation of § 1832 is: (1) A fine not more than
 9 the greater of \$5,000,000 or 3 times the value of the stolen trade secret to the organization, including
 10 the expenses for research and design and other costs of reproducing the trade secret that the
 11 organization has thereby avoided; (2) Restitution; (3) Asset Forfeiture; and (4) a \$400 special
 12 assessment. Infringement upon trade secrets is illegal under the Anti-Unfair Competition Law of the
 13 People's Republic of China.

14 On February 28, 2022, the trial of Defendant Jinhua commenced. Following five weeks of
 15 testimony, on April 4, 2022, the government rested. Jinhua then presented testimony from one
 16 witness for three days. At that point, on April 6, 2022, trial was adjourned and continued to a future
 17 date. As Jinhua is incorporated and based in the People's Republic of China, the remaining witnesses
 18 necessary for it to present its defense are all located in the PRC. But due to a combination of COVID-
 19-19-related complications and health issues, none of those witnesses have been able to travel to the
 20 United States for trial.

21 **Request for Assistance**

22 The only feasible way to allow Jinhua to present its defense is for its witnesses to be allowed
 23 to testify remotely. Although the United States has protested vigorously, due to the gravity of the
 24 charges against Jinhua, the uniqueness of the COVID-19 pandemic, and the need to allow Jinhua to
 25 present a defense, the Court is inclined to break from usual course and allow Jinhua to present its
 26 witnesses' testimony remotely. Jinhua's witnesses are willing to testify remotely, but the Court is
 27 aware that, on October 26, 2018, the People's Republic of China enacted the International Criminal
 28 Judicial Assistance Law, which, in part, only allows the provision of such testimony upon the
 approval of the PRC government.

1 The Court, in the spirit of comity and reciprocity, hereby requests international judicial
 2 assistance in the form of this Letter of Request to the Ministry of Justice of the People's Republic of
 3 China to make the following persons available to give evidence. The evidence will be taken in the
 4 form of an oral examination of the witnesses, with questions potentially asked by counsel for Jinhua,
 5 the United States government, and/or the judge.

Name	Address	Gender	Occupation
Lu Wensheng	No. 88, Lianhua Avenue, Jinjiang City, Quanzhou City, Fujian Province, China	Male	Chairman of Board of Directors, Jinhua
Wu Kunrong	No. 88, Lianhua Avenue, Jinjiang City, Quanzhou City, Fujian Province, China	Male	Engineer and Vice President, Jinhua
Professor Jiang Ying	No. 45, Zengguang Road, Haidian District, Beijing, China	Female	Professor, China University of Labor Relations
You Zhenfu	No. 88, Lianhua Avenue, Jinjiang City, Quanzhou City, Fujian Province, China	Male	Director of Human Resources, Jinhua
Wu Junsheng	No. 88, Lianhua Avenue, Jinjiang City, Quanzhou City, Fujian Province, China	Male	Director of Finance, Jinhua

22 Questions To Be Addressed in Remote Testimony

23 Lu Wensheng	24 1. The witness's background and relationship to Jinhua. 25 2. Jinhua's formation. 26 3. The relationship between Jinhua and UMC, and the scope of the agreement between Jinhua and UMC. 27 4. How the agreement between Jinhua and UMC was implemented. 28 5. The attendance of various Jinhua and/or UMC employees at events in the United States.
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	<p>6. The raids of UMC and the response by Jinhua and UMC.</p> <p>7. How Jinhua's Board of Directors operated.</p> <p>8. Chen Zhengkun's (Stephen Chen) relationship with Jinhua.</p> <p>9. Jinhua's Talent Retention Bonus Program and Jinhua's relationship with He Jianting (JT Ho).</p> <p>10. The aftermath of the allegations against Jinhua.</p>
Wu Kunrong	<p>1. The witness's background and relationship to Jinhua.</p> <p>2. The agreement between Jinhua and UMC, including the timeline, planned strategy, and cost for development of the subject technology.</p> <p>3. The witness's attendance at events in the United States.</p> <p>4. Chen Zhengkun's (Stephen Chen) relationship with Jinhua.</p> <p>5. He Jianting (JT Ho), Li Fuzhe (Neil Lee), and Guo Fengming's (Ray Kuo) relationships with Jinhua.</p> <p>6. The implementation of the agreement between Jinhua and UMC.</p> <p>7. The response to the raids of UMC.</p> <p>8. The transfer of technology from UMC to Jinhua.</p>
Professor Jiang Ying	<p>1. The witness's background and work on the case.</p> <p>2. The operative law governing purported labor contracts between Jinhua and He Jianting (JT Ho), Li Fuzhe (Neil Lee), and Guo Fengming (Ray Kuo), and the legal effect of those contracts.</p>
You Zhenfu	<p>1. The witness's background and relationship to UMC and Jinhua.</p> <p>2. The recruitment of employees to work on UMC's DRAM development.</p> <p>3. The implementation of the Talent Retention Bonus Program and JT Ho, Neil Lee, and Ray Kuo's relationships with UMC and Jinhua.</p> <p>4. The witness's attendance with UMC and Jinhua employees at events in the United States.</p>
Wu Junsheng	<p>1. The witness's background and relationship to Jinhua.</p> <p>2. The Talent Retention Bonus Program and He Jianting (JT Ho), Li Fuzhe (Neil Lee), and Guo Fengming's (Ray Kuo) relationship to Jinhua.</p> <p>3. Jinhua and UMC's agreement concerning the procurement of tools.</p>

	4. Chen Zhengkun's (Stephen Chen) relationship to Jinhua. 5. Jinhua's payments to UMC.
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4 **Reciprocity**

5 The United States District Court for the Northern District of California is willing to provide
6 similar assistance to the judicial authorities of the PRC.

7 **Reimbursement for Costs**

8 The fees and costs incurred by the Ministry of Justice of the People's Republic of China in
9 executing this Request will be borne by Defendant Jinhua.

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11 Date: _____

12 The Honorable Maxine M. Chesney
13 United States District Court for the
14 Northern District of California
15 San Francisco Courthouse
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17 450 Golden Gate Avenue,
18 San Francisco, CA 94102
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